



JUBILEE CAMPAIGN
ECOSOC Special Consultative Status (2003)
SET MY PEOPLE FREE

United Nations Human Rights Council
Universal Periodic Review – THIRD CYCLE
Submission to the 41st session of the Human Rights Council's Universal Periodic Review
October – November 2022

The Republic of Tunisia

A Vital Voice for Those Suffering in Silence
9689-C Main Street • Fairfax, VA 22031-3746 TEL: (703) 503-2260 FAX: (703) 503-0792
EMAIL: jubilee@jubileecampaign.org
P.O. Box 700 • Addlestone • Surrey, KT15 9BW • United Kingdom
JUBILEE CAMPAIGN IS A NON-PROFIT, TAX EXEMPT, CHARITABLE ORGANIZATION IN THE UNITED STATES

**United Nations Human Rights Council
Universal Periodic Review of the Republic of Tunisia**

I. Background

1. **Jubilee Campaign**, in special consultative status with ECOSOC, submits this analysis of religious freedom and human rights in the Republic of Tunisia as a contribution to the Universal Periodic Review. Jubilee Campaign is a non-governmental organization focusing on promoting the rights of religious and ethnic minorities and raising the status of vulnerable women and children – to protect them from bodily harm and sexual exploitation.
2. **Set My People Free** is a network of individuals, churches and organizations working for the freedom of converts from Islam to live and practice their new faith, and to experience equality and justice in their home countries.

II. Scope of international obligations and cooperation with human rights mechanisms and bodies.

3. Tunisia has ratified the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; the Optional Protocol of the Convention against Torture, the International Covenant on Civil and Political Rights; the Convention for the Protection of All Persons from Enforced Disappearance; the Convention on the Elimination of All Forms of Discrimination against Women; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography; and the Convention on the Rights of Persons with Disabilities.
4. Tunisia has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty; the Interstate communication procedure under the International Convention for the Protection of All Persons from Enforced Disappearance; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Recommendation(s)

We urge the Republic of Tunisia to:

5. Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty; the Interstate

communication procedure under the International Convention for the Protection of All Persons from Enforced Disappearance; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

III. Violations of international human rights obligations, considering applicable international humanitarian law

A. Freedom of thought, conscience, and religion

6. Article 1 of the 2014 Constitution of Tunisia identifies Islam as the national religion; Article 6 states that “the state is the guardian of religion. It guarantees freedom of conscience and belief, the free exercise of religious practices and the neutrality of mosques and places of worship from all partisan instrumentalization”. Article 74 requires that Tunisian presidents must be Muslim.¹
7. While the Tunisian Penal Code does not explicitly or directly criminalize acts of alleged blasphemy, it does prohibit speech that is likely to “cause harm to the public order or public morals”. The Tunisian Telecommunications Code, which criminalizes “harming others or disrupting their lives through public communication networks” has been used to crack down on speech that is allegedly offensive to religion or blasphemous.²
8. In May 2020, Tunisian authorities arrested blogger and student Emna Chargui for a Facebook post she made during Ramadan titled “The Sura of Corona” in which she mimicked Quranic diction to describe the coronavirus as an epidemic that would “eliminate the differences between kings and slaves” and encouraged readers to wash their hands with soap. The Court of First Instance in July sentenced Chargui to six months’ imprisonment and a 2,000 dinar (≈ USD \$690) fine for “inciting hatred between religions”.³ Throughout Chargui’s trial proceedings, she received numerous death threats.
9. In November 2020, authorities from the Hay El Khadra Unit for Combating Terrorism and Organized Crime arrested blogger Wajdi Mahouechi after he criticized the nation’s public prosecutor for not taking action against a Tunisian Muslim cleric who justified the recent killing of a French teacher by his students after he displayed images of Prophet Muhammad in a class lecture on freedom of expression. The Tunis First Instance Court convicted Mahouechi of “accusing officials of a crime without providing proof”, “offending others via telecommunications networks”, “public calumny”, and “insulting an officer on

¹ [Constitution de la République Tunisienne](#) [Tunisia], January 2014.

² End Blasphemy Laws, [Tunisia](#).

³ Barrett Limoges, [“Prosecution of blogger over Quran parody ignites renewed fears of censorship”](#), *Al-Monitor*, 29 May 2020. ; BBC News, [“Coronavirus: Blogger Emna Charqui given jail term over Koran-style post”](#), 14 July 2020.

duty” and sentenced him to two years’ imprisonment and a fine of 1,000 Tunisian dinars (≈ USD \$340).⁴

10. In August 2021, Algerian Christian political activist Suleiman Bouhafs was abducted from his home in Tunis, Tunisia before reappearing in Algeria days later. Bouhafs had previously been imprisoned in Algeria in 2016 on charges of blasphemy for sharing a cartoon of the Prophet Muhammad, and he escaped the country in 2018 after receiving a presidential pardon. It is believed that Tunisian authorities, in contravention of the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, directly participated in Bouhafs’ repatriation to Algeria where he faces multiple charges, including blasphemy.⁵

11. The Attalaki Association for Liberty and Equality Committee on Religious Freedom released its 2020 Annual Report on Tunisia in which they reveal the most pressing religious freedom concerns in the country:⁶

a. *Hate Speech*: In January 2020, Islamic cleric Adel Al-Alami posted on his personal Facebook account a blog calling for the killing of Jews, Christians, and Shiite Muslims and falsely accusing them of being foreign agents; he stated “Muslims, listen and be aware: if one of you has ten arrows, then to the Jews and Christians throw one and the Magi and then the so-called Shiites falsely throw the remaining nine”.⁷

b. *Apostasy/Blasphemy*: In March 2020, Tunisian Member of Parliament Muhammad al-Afas stated during a formal intervention that “we should not be ashamed of accusing people of apostasy, as it is a legitimate ruling”.⁸ Another MP, Rashed El-Khayari, stated in October 2020 in response to the murder of teacher Samuel Paty in France over his use of a cartoon of Prophet Muhammad in a college lecture that “insulting the Messenger of God is the greatest crime, and whoever commits it bears its consequences and outcomes”. In November 2020 in response to the same incident in France, Imam Mukhtar al-Dalali criticized Tunisian civilians for being horrified over the murder and stated that “the issue is permissible according to Sharia and there is nothing wrong with it, and this is what is required. [...] if the Prophet Muhammad, peace be upon him, was insulted by caricatures or insulted or deprecated, then it is obligatory to kill his offenders”.⁹

⁴ Peoples Dispatch, [“Court in Tunisia sentences blogger to two years in prison over social media posts”](#), 27 November 2020.

⁵ Jubilee Campaign, [“Press Release – ALGERIA/TUNISIA: Christian Political Refugee Abducted, Disappeared, Repatriated to Home Country for Likely Prosecution”](#), 3 September 2021.

⁶ Attalaki Association for Liberty and Equality Committee on Religious Freedom, Minority Rights Group Europe, & Norwegian Agency for Development Cooperation, [Religious Freedom Report Tunisia 2020: Religious freedom leads to a free society](#), March 2021.

⁷ *Ibid.*, p. 4.

⁸ *Ibid.*, p. 5.

⁹ *Ibid.*, p. 20.

- c. *Persecution of churches*: In July 2020, numerous Tunisian Facebook pages shared publications regarding the conversion of the Hagia Sophia Church in Turkey into a mosque, and called for the demolition of the Catholic Church in Tunis and the construction of a mosque in its place.¹⁰
- d. *Violence*: In March 2020, a Christian family in Tunis was subjected to harassment and hate slogans by their neighbors; one of the Christian family members, a young girl, was dragged by her hair into the street and punched in the face multiple times in front of a group of neighbors who denigrated and insulted her. When the girl filed a complaint with the police and provided medical documentation of her injuries, the authorities did not take action against the perpetrators but instead questioned the victim about her faith, how she obtained religious texts, and what church she attends. In October 2020, a woman was physically beaten by her brother who had accused her of blasphemy and “deviation from the religion”; police did not follow up on her complaint.¹¹
- e. *Arbitrary detention*: In February 2020, Tunisian authorities arrested a group of foreigners as they were distributing Christian flyers in Enfidha. June 2020, Tunisian authorities arrested a Christian girl for wearing a cross necklace and interrogated her about her conversion away from Islam.¹²
- f. *Prohibition of certain faith communities*: The Minister of Religious Affairs has stated of the possibility of legal status for Baha’is that “it is evident from the above that the Baha’i principles contradict the principles of Islam from the pillars of faith and worship, and as such is contrary to the preamble to the constitution which stipulates that the Tunisian people adhere to the teachings of Islam...”¹³

12. In a positive turn of events, in early February 2022, representatives from all religious communities in Tunisia collectively signed the National Charter for Peaceful Coexistence which guarantees the right to religious freedom and promotes harmony among all faiths. The representatives who attended the meeting include Rabbi Daniel Cohen (Jewish Synagogue in La Goulette), Mohamed Ben Moussa (Baha’i), Reverend Kamal Oulet Fatma and Sister Ahlam Arfaoui (Evangelical Church in Tunisia), Hassan Bouabdallah (Union of Sufi Ways), Sheikh Ahmed Salman (Ahl al-Bayt Shiite Center in Tunis). While the Charter was welcomed by Tunisian faith minorities, it unfortunately received much condemnation by the majority of Tunisian society. “Attalaki General Secretary Bakari said that the strong reaction was expected but [they] did not expect this many messages of threats and insults from the general public,

¹⁰ Attalaki Association for Liberty and Equality Committee on Religious Freedom, *supra* note 6. p.5.

¹¹ *Ibid.*, p. 5-6.

¹² *Ibid.*, p. 6.

¹³ *Ibid.*, p. 7.

radical Muslim sheikhs, intellectuals and others. All comments were unanimous that Tunisia is a Muslim country and will remain so.”¹⁴

Recommendation(s)

We commend the signing of the National Charter for Peaceful Coexistence and makes the following additional recommendations:

13. Cease the practice of using Penal Code articles on hate speech to arrest faith minorities for alleged acts of blasphemy and civilians for political dissent;
14. Release unconditionally and with immediate effect all religious and political prisoners of conscience in Tunisia;
15. Condemn speech and actions that incite violence against faith minorities;
16. Arrest and prosecute perpetrators of violence against faith minorities.

Advanced Questions:

17. How is Tunisia working to combat anti-Semitism?
18. Tunisia committed to strengthening legislation on freedom of expression and conscience (125.88), could you give us some examples of legislative changes you have undertaken during the reporting period?
19. Tunisia supported recommendation to “Continue efforts to improve the status of women and promote gender equality at all levels,” what legislative measure have been undertaken to ensure women’s equal rights to inheritance?

B. Gender-Based Violence (GBV), Violence against Women (VAW), & Intimate Partner Violence (IPV)

20. Like in many countries, rates of gender-based violence and domestic violence against women increased dramatically during the COVID-19 pandemic as a result of women being relegated to their homes with their abusers. The Tunisian Ministry for the Affairs of Women, Family, Children, and the Aged reported that in the first months of pandemic lockdowns in 2020, the number of cases of violence against women (VAW) had multiplied seven times. The following year, between January and October, one-fourth of all phone calls to the Ministry’s reporting hotline were in regards to intimate partner violence (IPV). Despite Law 58 of 2017 which criminalizes various forms of VAW, Tunisian

¹⁴ Ghassen Ayari, [“A national charter for peaceful coexistence in Tunisia”](#), *Christian Post*, 6 February 2022.

organization Mra found that only 0.5% of court decisions on VAW and IPV cases referred to the Law.¹⁵

21. Another domestic violence helpline established by the NGO *Forum Tunisien pour les Droits Economiques et Sociaux* reported that they received many calls during lockdown related to physical and sexual violence. To make matters much worse, while Tunisia has over 100 special police units to respond to incidents of violence against women and children, many of their members were diverted to other sectors such as pandemic mitigation and aid delivery, so fewer authorities were able to respond to cases of VAW and IPV. Moreover, during the pandemic lockdown, Tunisian women were increasingly unable to travel to police stations, hospitals, and women support centers.¹⁶
22. One unfortunate trend that increased with regards to violence against women in Tunisia during the pandemic was a rise in aggression towards frontline health workers – primarily women – such as nurses. In October 2020, a group of assailants armed with knives stormed Rabta Hospital in Tunis, attacked a nurse and a doctor, and destroyed medical equipment, as the hospital staff was unable to save a 94-year-old patient. In another incident, a female doctor based in Tunis was part of a pandemic response team that was violently threatened by a group of men when they visited the home of a gravely ill patient.
23. One woman named Nadia explained that while she had been receiving half-hearted threats from her husband for many years, these threats became increasingly concerning once the pandemic caused Tunisia to go on lockdown and she was stuck at home with her husband and daughter. Nadia’s husband, who was unable to work during the lockdown, began drinking heavily, and at one point her daughter revealed to Nadia that he had made inappropriate sexual advances towards her. She immediately reached out to authorities but faced extreme obstacles to justice. Her husband was able to afford a lawyer for himself, whereas she had no money for an attorney; Nadia believes that her husband may have bribed the authorities. At the request of authorities, however, Nadia was able to prepare a file of evidence of domestic violence. Nadia had enlisted the help of The Association of Women Democrats (ATFD) who learned that the police did not even forward Nadia’s evidence file to the court; ATFD was able to forward the file to the court and Nadia’s husband was swiftly arrested. Had Nadia not received help from ATFD, she could have lost custody of her daughter.¹⁷
24. On 9 May 2021 in El Kef, Tunisia, a man fatally shot his 26-year-old wife and the mother of his three children, Refka Cherni, with the weapon he used in his job as a national guard officer. Three days before her murder, Refka had

¹⁵ Lilia Labidi, [“Tunisian Women Denouncing Violence Against Women”](#), *Wilson Center*, 10 December 2021.

¹⁶ Layli Foroudi, [“Despite landmark legal protections, women continue to face gender-based violence in pandemic-era Tunisia”](#), *Equal Times*, 25 November 2020.

¹⁷ Rédaction Africanews, [“Tunisia’s gender violence law struggles to get beyond paper”](#), 7 March 2021.

presented medical reports of her injuries to authorities in attempts to file formal charges against her husband for domestic abuse.¹⁸

25. In October 2021, the African Legal Think Tank on Women’s Rights conducted a study resulting in the finding that technology-facilitated gender-based violence (GBV) is a major issue in African countries, especially during the pandemic. A year earlier, in November 2020, a group of women’s rights organizations based in Tunisia reported that a major form of such technology-facilitated GBV is the non-consensual dissemination of intimate photos and videos of women by their male partners. In 2021, a Tunisian woman faced many obstacles when her partner non-consensually uploaded an intimate video of the two onto a website without her permission, and it took much effort on her part to have the video removed.¹⁹

Recommendation(s)

We urge the Republic of Tunisia to:

26. Punish all perpetrators of GBV/IPV/VAW;
27. Improve GBV/IPV/VAW evidence gathering and preservation, reporting and referral mechanisms, record-keeping, victim privacy management, and witness protection; expand criminal investigation capacities;
28. Increase accessibility for GBV/IPV/VAW reporting mechanisms and support services which have become difficult for victims to access during the pandemic lockdown.
29. Ensure marital rape is explicitly criminalized by the next reporting period.

C. Violence against Children (VAC), Child Sexual Abuse (CSA), Child Neglect, & Other Rights Violations

30. In October 2019, Tunisia was the first non-member state of the Council of Europe’s Lanzarote Convention Protecting Children from Sexual Abuse for its work to prohibit and prosecute acts of sexual violence against children. However, Tunisian legislation stipulates that perpetrators of sexual violence and rape against children can escape criminal prosecution if they marry their victims, as marital rape is not covered by national legislation.²⁰
31. In 2010 Tunisia removed a Penal Code Article 319 stipulation which stated that “a [violent] correction inflicted on a child by individuals having authority over

¹⁸ Frida Dahmani, “[Femicide In Tunisia: Why A New Law Couldn’t Crack The Patriarchy](#)”, *World Crunch*, 25 May 2021.

¹⁹ Sodfa Daaji & Hela Ben Salem, “[In Tunisia, a Legal Patchwork Is Failing Women Online](#)”, *Cigi*, 24 May 2021.

²⁰ Ghaya Ben Mbarek, “[Despite Legal Reforms, Child Abuse is Widespread in Tunisia](#)”, *Meshkal*, 14 December 2019. ; Amnesty International UK, “[Tunisia’s victim-blaming laws are punishing survivors of sexual abuse](#)”, 18 May 2020.

him is not punishable”, and the 2014 Tunisian Constitution requires the state to “protect children”.²¹

32. In January 2019, the Tunisian Interior Ministry reported that the Social Protection Sub-Department of the Judicial Police Department were investigating the case of a Quranic boarding school in Regueb, Sidi Bouzid, where 42 children between the ages of 10 and 18 years were being subjected to negligence and physical and sexual abuse.²²
33. In March 2019, it was reported that Tunisian authorities are investigating the legal cases of 20 children that had been sexually abused and raped by a teacher working at their public school in Sfax between 2018 and 2019. The victims were predominantly girls between the ages of five and ten years old.²³
34. In June 2021, the Tunisian Ministry of Women, Family and Elderly announced that it had launched an online reporting portal for cases of sexual violence against children, where information would be used to remove sexual content involving children on the internet as well as provide perpetrator information to relevant authorities.²⁴

Recommendation(s)

We urge the Republic of Tunisia to:

35. Punish all perpetrators of VAC/CSA;
36. Develop an early detection mechanism for VAC and CSA; when necessary, engage in pre-emptive intervention and offer support and social services to children and families in situations of vulnerability (financial hardship, child abandonment, insecurity, pandemic stress) that aggrandize the risk of future VAC/CSA.

²¹ Ghaya Ben Mbarek, [“Despite Legal Reforms, Child Abuse is Widespread in Tunisia”](#), *Meshkal*, 14 December 2019.

²² Middle East Monitor, [“Tunisia investigates sexual abuse of 20 children in school”](#), 14 March 2019. ; Tunisian Republic Ministry of Interior, [“Press Release”](#), 3 February 2019.

²³ Middle East Monitor, [“Tunisia investigates sexual abuse of 20 children in school”](#), 14 March 2019.

²⁴ Tunis Afrique Presse, [“Tunisia: Online Reporting Portal for Child Sexual Abuse”](#), *AllAfrica*, 10 June 2021.